

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In Re:

VIRGINIA LYNN VAUGHAN-MACLIN,
Debtor.

Chapter 13
Case No. 13-35181-KLP

NICHOLAS FINANCIAL, INC.,
Movant,

v. CMN_____

VIRGINIA LYNN VAUGHAN-MACLIN, Debtor

and

CARL M. BATES, Trustee,

Respondents.

MOTION FOR RELIEF FROM STAY

NOW COMES Nicholas Financial, Inc. ("Creditor"), by counsel, and respectfully states as follows:

1. Virginia Lynn Vaughan-Maclin ("Debtor") filed a petition under Chapter 13 of the U.S. Bankruptcy Code on September 26, 2013, and relief was ordered.
2. This Motion is filed pursuant to 11 USC § 362 (d) and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure.
3. On January 25, 2011, Debtor, Virginia Lynn Vaughan-Maclin, entered into a certain Retail Installment Sale Contract for the purchase of a 2004 Cadillac SRX Sport (the "Vehicle"). A true and authentic copy of the Retail Installment Sale Contract is attached hereto as Exhibit "A".
4. Creditor had a valid and perfected lien on the Property as is more particularly set forth in the Retail Installment Sale Contract dated January 25, 2011, evidencing the security interest in a 2004 Cadillac SRX Sport vehicle, Vehicle Identification Number 1GYEE637340186202. In addition, a copy of a Certificate of Title showing Creditor as the sole lien-holder is attached hereto as Exhibit "B" and made a part hereof.

Peter S. Lake, Esquire
(VSB #30495)

McKenry, Dancigers, Dawson & Lake, P.C.
192 Ballard Court, Suite #400
Virginia Beach, VA 23462
(757) 461-2500 / pslake@va-law.org

5. The balance on the aforementioned Retail Installment Sale Contract as of January 10, 2014 is in the amount of \$8,830.09, plus attorney fees and costs.

6. Upon information and belief the NADA value of the Property is approximately \$6,600.00.

7. Debtor is due for July 24, 2013 in the amount of \$2,524.33, plus attorney fees and costs.

8. Creditor has not been offered and does not have adequate protection of its security interest in the Property.

9. Debtor has failed to insure the subject vehicle.

10. If the Court fails to grant relief from the stay as to the Property, Creditor may suffer irreparable harm.

11. Because of the failure of the Debtor to provide for adequate payments pursuant to the Plan and the Retail Installment Sale Contract, and failure to insure the subject vehicle, good cause exists to grant Creditor, relief from the automatic stay.

12. But for the automatic stay herein, Creditor, is entitled to enforce its rights as a creditor and, pursuant to the terms of the Retail Installment Sale Contract and the laws of the State of Virginia, to sell the vehicle and enforce the other provisions of default of said Retail Installment Sale Contract.

13. If the Court fails to grant relief from the stay as to the Property, Creditor may suffer irreparable harm. Good cause exists to grant relief.

14. But for the automatic stay herein, Creditor, is entitled to enforce its rights as a creditor and, pursuant to the terms of the Retail Installment Sale Contract and the laws of the State of Virginia, to sell the vehicle and enforce the other provisions of default of said Retail Installment Sale Contract.

WHEREFORE, Creditor, Nicholas Financial, Inc. moves the Court for the entry of an Order granting it relief from the automatic stay under 11 USC § 362(d) in order to permit Creditor to exercise any and all rights and remedies it may have under the Retail Installment Sale Contract or any other security instrument relating to the vehicle, the title to the Vehicle and its ownership interest, or under existing law and for an award of attorney fees and costs incurred herewith.

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NICHOLAS FINANCIAL, INC.

By: /s/ Peter S. Lake
Peter S. Lake, Esquire

**NOTICE TO DEBTOR AND CO-DEBTOR
Pursuant to Local Rule 4001(a)**

Take notice that as a debtor defendant you shall have fourteen (14) days from the date of service of this motion in which to file with the Court a written response, with a copy to the plaintiff or the stay protecting you from further legal action by this creditor will be lifted as requested without a Court hearing. Take notice that as co-debtor defendant you shall have twenty-one (21) days from the date of service of this motion in which to file with the Court a written response, with a copy to the plaintiff or the stay protecting you from further legal action by this creditor will be lifted as requested without a Court hearing.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed or electronically transmitted this 15th day of January, 2014, to Robert B. Duke, Jr., Esquire, 207-A South Main Street, Blackstone, VA 23824, Carl M. Bates, Trustee, P. O. Box 1819, Richmond, VA 23218 and to Virginia Lynn Vaughan-Maclin, 608 Belt Road, Lawrenceville, VA 23868.

/s/ Peter S. Lake
Peter S. Lake, Esquire

Peter S. Lake, Esquire
(VSB #30495)

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In Re:

VIRGINIA LYNN VAUGHAN-MACLIN,)	Case No. 13-35181-KLP
)	Chapter 13
Debtor.)	

NOTICE OF MOTION (OR OBJECTION)

Nicholas Financial, Inc. filed papers with the Court to seek relief from the automatic stay herein.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

Notice to Debtor(s)

If you, as debtor do not want the court to grant the relief sought in the motion (or objection), or if you want the court to consider your views on the motion (or objection), then on or before 14 days following service you or your attorney must:

 x You must file a written response explaining your position with the Court and serve a copy on the movant. Unless a written response is filed and served within this fourteen day period, the Court may deem opposition waived, treat the motion as conceded and issue an order granting the requested relief without further notice or hearing. If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the 14 day period. You will be notified separately of the hearing date on the motion.

Notice to Co-Debtor (if applicable)

If you, as co-debtor do not want the court to grant the relief sought in the motion (or objection), or if you want the court to consider your views on the motion (or objection), then on or before 21 days following service you or your attorney must:

 You must file a written response explaining your position with the Court and serve a copy on the movant. Unless a written response is filed and served within this twenty-one day period, the Court may deem opposition waived, treat the motion as conceded and issue an order granting the requested relief without further notice or hearing. If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the 21 day period. You will be notified separately of the hearing date on the motion. If you do not file a written response by the deadline shown, the law provides that the stay protecting you from further legal action against you by this Creditor will automatically terminate.

Peter S. Lake, Esquire
(VSB #30495)

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192 Ballard Court, Suite #400
Virginia Beach, VA 23462
(757) 461-2500 / pslake@va-law.org

Clerk of the Court
United States Bankruptcy Court
701 East Broad Street #4000
Richmond, VA 23219

You must also mail a copy to:

Peter S. Lake, Esquire, 192 Ballard Court, Suite 400, Virginia Beach, VA 23462
(movant's attorney's name and address)

Robert B. Duke, Jr., Esquire, 207-A South Main Street, Blackstone, VA 23824
Carl M. Bates, Trustee, P. O. Box 1819, Richmond, VA 23218
Virginia Lynn Vaughan-Maclin, 608 Belt Road, Lawrenceville, VA 23868
(names and addresses of others to be served)

____ Attend a hearing to be scheduled at a later date. You will receive separate notice of hearing. **If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.**

X Attend the hearing on the motion (or objection) scheduled to be held on February 12, 2014 at 11:00 A.M., United States Bankruptcy Court, 701 East Broad Street, Courtroom #5100, Richmond, VA 23219.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

DATE: 01/15/14

Signature, name, address and
telephone number of person
giving notice:

/s/ Peter S. Lake
Peter S. Lake, Esquire
192 Ballard Court, Suite 400
Virginia Beach, VA 23462
(757) 461-2500
Virginia State Bar No. 30495
Counsel for:
Nicholas Financial, Inc.

Peter S. Lake, Esquire
(VSB #30495)

McKenry, Dancigers, Dawson & Lake, P.C.
192 Ballard Court, Suite #400
Virginia Beach, VA 23462
(757) 461-2500 / pslake@va-law.org

Certificate of Service

I hereby certify that I have this 15th day of January, 2014, mailed, hand-delivered or electronically transmitted a true copy of the foregoing Notice of Motion (or Objection) to the parties listed on the attached service list.

/s/ Peter S. Lake
Peter S. Lake, Esquire

SERVICE LIST:

Robert B. Duke, Jr., Esquire, 207-A South Main Street, Blackstone, VA 23824
Carl M. Bates, Trustee, P. O. Box 1819, Richmond, VA 23218
Virginia Lynn Vaughan-Maclin, 608 Belt Road, Lawrenceville, VA 23868
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